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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,390	11/12/2003	Charles E. Taylor	SHPR-01041 USX	6836
23910	7590	02/22/2005		
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			EXAMINER VERSTEEG, STEVEN H	
			ART UNIT 1753	PAPER NUMBER

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/706,390  Examiner Steven H VerSteeg	Applicant(s) TAYLOR ET AL.  Art Unit 1753
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 November 2003.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 1-8 and 18 is/are allowed.  
 6) Claim(s) 9-11 and 14-17 is/are rejected.  
 7) Claim(s) 12 and 13 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 12 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1.) Certified copies of the priority documents have been received.  
 2.) Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: *See Continuation Sheet*.

Continuation of Attachment(s) 6). Other: IDS filed 11/12/03; note that the IDS comprises only pages 4-10; pages 1-3 did not need returned.

## DETAILED ACTION

### *Information Disclosure Statement*

1. There are several references crossed out on the IDS filed November 12, 2003. FR 2690509 was crossed out because it was not in English. The other references were crossed out because we have lost the copies of those references. Please re-submit those references and I will re-send the IDS with the next office action.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 9-11 and 14-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 6, and 11 of U.S. Patent No. 6,713,026 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are obvious over the claims of the patent.

4. For claim 9 of the instant invention, Applicant requires an air conditioner system comprising a housing having at least one vent and an ion generating unit positioned in the housing including an emitter electrode array, a collector electrode array, and a high voltage generator to provide a potential difference between the emitter array and the collector array

wherein at least one of the arrays is removable through an upper portion of the housing from a resting position within the housing to a location external to the housing to thereby allow for cleaning and wherein the removable array is returnable through the upper portion of the housing such that the gravity will assist with return to the resting position within the housing.

5. Claim 6 of the patent claims all of the limitation except for the high voltage generator to provide a potential difference between the arrays. Claim 1 of the patent discloses the use of a high voltage generator that provides a potential difference between two electrodes in an air conditioner system.

6. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of claim 6 to utilize a high voltage generator as taught in claim 1 because of the desire to provide power to the air conditioning system.

7. For claim 10 of the instant invention, Applicant requires a user-liftable handle secured to the removable at least one of the arrays and be accessible through an opening in the upper portion of the housing to assist a user with lifting the electrode assembly out of the housing from the resting position within the housing. Claim 6 of the patent discloses the limitation almost word for word.

8. For claim 11, Applicant requires the opening in the upper portion of the housing to be through a top surface of the housing. Claim 6 of the patent requires the opening to be in the top surface.

9. For claim 14, Applicant requires the house to be vertically elongated. Claim 6 of the patent does not disclose the direction of the elongation, but claim 11 of the patent discloses the housing for a similar system is vertically elongated.

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10. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of claim 6 of the patent to have the elongation vertically as taught by claim 11 of the patent because of the desire to utilize an alternately claimed embodiment.

11. For claim 15, Applicant requires the collector electrode array to include at least one vertically elongated collector electrode. Because claim 6 of the patent already claims the collector electrode to be elongated along the direction of the housing and the housing being vertically elongated is obvious as noted above, the limitation is met.

12. For claim 16, Applicant requires an air conditioning system comprising an upstanding, vertically elongated housing having a vertical channel and at least one air vent allowing air to enter the vertical channel; an ion generating unit positioned in the housing including an electrode assembly to rest within the vertical channel; and a handle secured to at least a portion of the electrode assembly to assist a user with lifting the assembly vertically out of the channel.

13. Claim 6 of the patent discloses an air conditioner system containing all of the limitations of claim 16 except for the housing being vertically elongated, but claim 11 of the patent discloses the housing for a similar system is vertically elongated.

14. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of claim 6 of the patent to have the elongation vertically as taught by claim 11 of the patent because of the desire to utilize an alternately claimed embodiment.

15. For claim 17, Applicant requires an air conditioning system comprising an upstanding, vertically elongated housing having at least one air vent; an ion generating unit positioned in the

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housing including at least one emitter electrode, at least one collector electrode elongated along a direction of elongation of the housing wherein at least one of the electrodes is vertically removable through an opening through the top portion of the housing such that a user can vertically lift the electrode out of the housing from a resting position in the housing and wherein the removable electrode is vertically returnable through the opening such that gravity will assist return to the resting position within the housing.

16. Claim 6 of the patent discloses an air conditioner system containing all of the limitations of claim 17 except for the housing being vertically elongated, but claim 11 of the patent discloses the housing for a similar system is vertically elongated.

17. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of claim 6 of the patent to have the elongation vertically as taught by claim 11 of the patent because of the desire to utilize an alternately claimed embodiment.

18. Claim 16 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8 and 4 of copending Application No. 10/074,379. Although the conflicting claims are not identical, they are not patentably distinct from each other because the invention of instant claim 16 is obvious over the claims of the co-pending application.

19. Claim 16 is described above. Claim 8 of the co-pending application discloses all of the limitations of claim 16 except for the housing to be vertically elongated, but claim 4 discloses the housing for a similar system is vertically elongated.

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20. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of claim 8 of the patent to have the elongation vertically as taught by claim 4 of the patent because of the desire to utilize an alternately claimed embodiment.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

21. Claim 16 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 57 and 85 of copending Application No. 10/023,460. Although the conflicting claims are not identical, they are not patentably distinct from each other because the invention of instant claim 16 is obvious over the claims of the co-pending application.

22. Claim 16 is described above. Claim 85 of the co-pending application discloses all of the limitations of claim 16 except for the housing to be vertically elongated, but claim 57 discloses the housing for a similar system is vertically elongated.

23. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of claim 85 of the patent to have the elongation vertically as taught by claim 57 of the patent because of the desire to utilize an alternately claimed embodiment.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

24. Claim 16 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 34 of copending Application No.

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10/023,197. Although the conflicting claims are not identical, they are not patentably distinct from each other because the invention of instant claim 16 is obvious over the claims of the co-pending application.

25. Claim 16 is described above. Claim 34 of the co-pending application discloses all of the limitations of claim 16 except for the housing to be vertically elongated, but the housing can only be elongated either vertically or horizontally.

26. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of claim 8 of the patent to have the elongation vertically because vertically is one of only two choices.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

27. Claims 9-11 and 14-17 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 6 of copending Application No. 10/815,230. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are fully disclosed in the claims of the co-pending application.

28. Claims 9-11 and 14-17 are described above. Claim 6 of the patent fully encompasses claims 9-11, 14, and 15 of the instant invention. Specifically, claim 6 discloses the air conditioner system with a vertically elongated housing, ion generating unit with emitter electrode and removable collector electrode by a handle through top surface of the housing and returnable through the opening, and high voltage generator.

29. Claim 1 of the co-pending application discloses all of the limitations of claim 16 and 17 and thus fully encompasses claims 16 and 17.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Allowable Subject Matter***

30. Claims 1-8 and 18 are allowed.

31. Claims 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

32. The following is a statement of reasons for the indication of allowable subject matter: it is neither anticipated nor obvious over the prior art of record to have an air conditioner system as claimed by Applicant in claims 1, 6, and 18.

33. None of the prior art of record discloses an air conditioner system wherein the first and second electrodes or the electrode assembly are removable through an upper portion of the housing to a location external to the housing and returnable through the upper portion of the housing such that gravity will assist with return of the electrodes or electrode assembly to the resting position within the housing.

***General Information***

For general status inquiries on applications not having received a first action on the merits, please contact the Technology Center 1700 receptionist at (571) 272-1700.

For inquiries involving Recovery of lost papers & cases, sending out missing papers, resetting shortened statutory periods, or for restarting the shortened statutory period for response, please contact Denis Boyd at (571) 272-0992.

For general inquiries such as fees, hours of operation, and employee location, please contact the Technology Center 1700 receptionist at (571) 272-1300.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven H VerSteeg whose telephone number is (571) 272-1348. The examiner can normally be reached on Mon - Thurs (6:30 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X Nguyen can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven H VerSteeg  
Primary Examiner  
Art Unit 1753

shv  
February 17, 2005